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14 IN THE UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16
17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 CHRISTIAN CLAUSTRO,
21 Defendant.

22 CASE NO. 1:22-MJ-00197-SAB
23 STIPULATION REGARDING EXCLUDABLE
24 TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: October 31, 2023
TIME: 2:00 p.m.

25 This case is set for a preliminary hearing on October 31, 2023. The parties agree and stipulate to
26 continue the preliminary hearing until February 6, 2024. Defense counsel requested the government to
27 consider deferred prosecution. The government is in the process of consulting with an expert to assist in
evaluating the circumstances that may make the case appropriate for the defendant's requested
disposition. The parties need additional time work through the analysis.

28 **STIPULATION**

29 Plaintiff United States of America, by and through its counsel of record, and defendant, by and
30 through defendant's counsel of record, hereby stipulate as follows:

- 31 1. By previous order, this matter was set for preliminary hearing on October 31, 2023.
32 2. By this stipulation, defendant now moves to continue the preliminary hearing until
33 **February 6, 2024, at 2:00 p.m.** and to exclude time between October 31, 2023, and February 6, 2024.
34 3. The parties agree and stipulate, and request that the Court find the following:

- 1 a) The parties are discussing and conducting further investigation into pre-
2 indictment matters, including consideration of embarking on the process to request deferred
3 prosecution, and need additional time to conclude that process.
- 4 b) The government represents that discovery consists of reports, and that an initial
5 dissemination of discovery has been provided to defense, consisting of National Park Service
6 Reports and the defendant's criminal history.
- 7 c) Counsel for defendant desires additional time to consult with her client, conduct
8 further investigation, and discuss charges with the government. Defense has continued to
9 investigate various issues related to the facts and a resolution since the last continuance was
10 granted. Counsel for defendant also requested the government to consider deferred prosecution,
11 and the government is gathering information necessary to do so.
- 12 d) Counsel for defendant believes that failure to grant the above-requested
13 continuance would deny him the reasonable time necessary for effective preparation, taking into
14 account the exercise of due diligence.
- 15 e) The government does not object to the continuance.
- 16 f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held "no later
17 than 14 days after initial appearance if the defendant is in custody," unless the defendant
18 consents and there is a "showing of good cause". Here, the defendant consents and there is good
19 cause as set forth herein.
- 20 g) Based on the above-stated findings, the ends of justice served by continuing the
21 case as requested outweigh the interest of the public and the defendant in an indictment or trial
22 within the original dates prescribed by the Speedy Trial Act.
- 23 h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
24 et seq., within which an indictment must be filed and within which a trial must commence, the
25 time period of October 31, 2023 to February 6, 2024, inclusive, is deemed excludable pursuant to
26 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at
27 defendant's request on the basis of the Court's finding that the ends of justice served by taking
28 such action outweigh the best interest of the public and the defendant in a speedy

1 indictment/trial.

2 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
3 Speedy Trial Act dictate that additional time periods are excludable from the period within which an
4 indictment must be filed and a trial must commence.

5 IT IS SO STIPULATED.

6 Dated: October 30, 2023

PHILLIP A. TALBERT
United States Attorney

7 /s/ ROBERT L. VENEMAN-HUGHES
8 ROBERT L. VENEMAN-HUGHES
9 Assistant United States Attorney

10 Dated: October 30, 2023

11 /s/ ERIN SNIDER
12 ERIN SNIDER
Counsel for Defendant
13 CHRISTIAN CLAUSTRO

14 FINDINGS AND ORDER

15 Having reviewed the parties Stipulation and proposed findings, the Court finds the following:

16 a) The parties are discussing and conducting further investigation into pre-
17 indictment matters, including potential deferred prosecution, and need additional time to
18 conclude that process.

19 b) The government represents that discovery consists of reports, and that an initial
20 dissemination of discovery has been provided to defense, consisting of National Park Service
21 Reports and the defendant's criminal history.

22 c) Counsel for defendant desires additional time to consult with her client, conduct
23 further investigation, and discuss charges with the government. Defense has continued to
24 investigate various issues related to the facts and a resolution since the last continuance was
25 granted. Counsel for defendant also requested the government to consider deferred prosecution,
26 and the government is gathering information necessary to do so.

27 d) Counsel for defendant believes that failure to grant the above-requested
28 continuance would deny him the reasonable time necessary for effective preparation, taking into

1 account the exercise of due diligence.

2 e) The government does not object to the continuance.

3 f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held “no later
4 than 14 days after initial appearance if the defendant is in custody,” unless the defendant
5 consents and there is a “showing of good cause”. Here, the defendant consents and there is good
6 cause as set forth herein.

7 g) Based on the above-stated findings, the ends of justice served by continuing the
8 case as requested outweigh the interest of the public and the defendant in an indictment or trial
9 within the original dates prescribed by the Speedy Trial Act.

10 h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
11 et seq., within which an indictment must be filed and within which a trial must commence, the
12 time period of October 31, 2023 to February 6, 2024, inclusive, is deemed excludable pursuant to
13 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted
14 by the Court at defendant’s request on the basis of the Court’s finding that the ends of justice
15 served by taking such action outweigh the best interest of the public and the defendant in a
16 speedy indictment/trial.

17 IT IS HEREBY ORDERED that the preliminary hearing scheduled for October 31, 2023 at 2:00
18 p.m. is continued to **February 6, 2024 at 2:00 p.m. before Magistrate Judge Erica P. Grosjean**. IT IS
19 FURTHER ORDERED that the time between October 31, 2023 and February 6, 2024 is excluded
20 pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court
21 at defendant’s request on the basis of the Court’s finding that the ends of justice served by taking such
22 action outweigh the best interest of the public and the defendant in a speedy indictment/trial.
23 IT IS SO ORDERED.

24 Dated: October 30, 2023

/s/ Barbara A. McAuliffe

25 UNITED STATES MAGISTRATE JUDGE